**A** **BILL**

TO AMEND SECTION 1-23-100 OF THE 1976 CODE, RELATING TO EXEMPTIONS FOR EXECUTIVE ORDERS, PROCLAMATIONS, OR DOCUMENTS ISSUED BY THE GOVERNOR’S OFFICE, TO DELETE THE PROVISION THAT SUCH ORDERS ARE NOT SUBJECT TO GENERAL ASSEMBLY APPROVAL; TO AMEND SECTION 1-23-110(A)(3) AND (C)(1) OF THE 1976 CODE, RELATING TO PROCEDURES FOR THE PUBLICATION OF NOTICE OF A PROPOSED PROMULGATION OF REGULATIONS, PUBLIC PARTICIPATION, AND A CONTEST OF REGULATION FOR PROCEDURAL DEFECTS, TO PROVIDE FOR NOTICE AND TO PROVIDE THAT ALL WRITTEN SUBMISSIONS, TRANSCRIPTS, OR RECORDINGS OF ORAL SUBMISSIONS MUST BE PROVIDED TO THE SMALL BUSINESS REGULATORY REVIEW COMMITTEE; TO AMEND SECTION 1-23-120(I) AND (J) OF THE 1976 CODE, RELATING TO THE APPROVAL OF REGULATIONS, TO PROVIDE FOR METHODS OF REPEAL OR AUTOMATIC APPROVAL OF REGULATIONS; TO AMEND ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE, RELATING TO THE STATE REGISTER AND CODE OF REGULATIONS, BY ADDING SECTION 1-23-121, TO PROVIDE THAT REGULATIONS MAY NOT CONTAIN VERBATIM STATUTORY TEXT, AND TO PROVIDE THAT ANY REGULATIONS IN VIOLATION OF THIS SECTION ARE REPEALED; AND TO AMEND SECTION 1-23-280(B) AND (C) OF THE 1976 CODE, RELATING TO THE SMALL BUSINESS REGULATORY REVIEW COMMITTEE MEMBERSHIP, TO ADD AGRIBUSINESS REPRESENTATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 1-23-100 of the 1976 Code is amended to read:

“Section 1-23-100. This article shall not apply to Executive Orders, proclamations or documents issued by the Governor's Office. However, Governor's Executive Orders, having general applicability and legal effect shall be transmitted by the Secretary of State to the Legislative Council to be published in a separate section of the State Register for information purposes only. ~~Such orders shall not be subject to General Assembly approval.~~”

SECTION 2. Section 1-23-110(A)(3) of the 1976 Code is amended to read:

“(3) ~~give notice of~~ hold a public hearing at which the agency will receive data, views, or arguments, orally and in writing, from interested persons on proposed regulations. Notice of the public hearing must be provided in the same manner required by subsection (B) and by publication of a notice in the State Register if requested by twenty‑five persons, by a governmental subdivision or agency, or by an association having not less than twenty‑five members. The notice must include:

(a) the address to which written comments must be sent and the time period of not less than thirty days for submitting these comments;

(b) the date, time, and place of the public hearing which must not be held sooner than thirty days from the date the notice is published in the State Register;

(c) a narrative preamble and the text of the proposed regulation. The preamble shall include a section‑by‑section discussion of the proposed regulation and a justification for any provision not required to maintain compliance with federal law including, but not limited to, grant programs;

(d) the statutory authority for its promulgation;

(e) a preliminary fiscal impact statement prepared by the agency reflecting estimates of costs to be incurred by the State and its political subdivisions in complying with the proposed regulation. A preliminary fiscal impact statement is not required for those regulations which are not subject to General Assembly review under Section 1‑23‑120;

(f) a summary of the preliminary assessment report submitted by the agency to the office and notice that copies of the preliminary report are available from the agency. The agency may charge a reasonable fee to cover the costs associated with this distribution requirement. A regulation that does not require an assessment report because it does not have a substantial economic impact, must include a statement to that effect. A regulation exempt from filing an assessment report pursuant to Section 1‑23‑115(E) must include an explanation of the exemption;

(g) statement of the need and reasonableness of the regulation as determined by the agency based on an analysis of the factors listed in Section 1‑23‑115(C)(1) through (11). At no time is an agency required to include items (4) through (8) in the reasonableness and need determination. However, comments related to items (4) through (8) received by the agency during the public comment periods must be made part of the official record of the proposed regulations.

(h) the location where a person may obtain from the agency a copy of the detailed statement of rationale as required by this item. For new regulations and significant amendments to existing regulations, an agency shall prepare and make available to the public upon request a detailed statement of rationale which shall state the basis for the regulation, including the scientific or technical basis, if any, and shall identify any studies, reports, policies, or statements of professional judgment or administrative need relied upon in developing the regulation. This subitem does not apply to regulations which are not subject to General Assembly review under Section 1‑23‑120.”

SECTION 3. Section 1-23-110(C)(1) of the 1976 Code is amended to read:

“(C)(1) The agency shall consider fully all written and oral submissions respecting the proposed regulation. All written submissions, transcripts, or recordings of oral submissions must be provided to the Small Business Regulatory Review Committee.”

SECTION 4. A. Section 1-23-120(I) and (J) of the 1976 Code is amended to read:

“(I) For purposes of this section, only those calendar days occurring during a session of the General Assembly, excluding special sessions, are included in computing the days elapsed, notwithstanding the provisions of subsections (K), (L), and (M).

(J) ~~Each state agency, which promulgates regulations or to which the responsibility for administering regulations has been transferred, shall by July 1, 1997, and every five years thereafter, conduct a formal review of all regulations which it has promulgated or for which it has been transferred the responsibility of administering, except that those regulations described in subsection (H) are not subject to this review. Upon completion of the review, the agency shall submit to the Code Commissioner a report which identifies those regulations:~~

(1) ~~for which the agency intends to begin the process of repeal in accordance with this article;~~ All regulations that take effect through the one hundred twenty day automatic approval process shall expire five years from their effective date.

(2) ~~for which the agency intends to begin the process of amendment in accordance with this article; and~~ All regulations receiving approval from the General Assembly through a joint resolution shall remain in effect until repealed or amended in accordance with this article.

(3) ~~which do not require repeal or amendment.~~ Nothing in this subsection may be construed to prevent an agency from repealing or amending a regulation in accordance with this article before or after it is identified in the report to the Code Commissioner.”

B. The provisions of Section 1-23-120(J)(1) and (2), as amended by this act, take effect for regulations promulgated after January 1, 2021.

SECTION 5. Section 1-23-120 of the 1976 Code is amended by adding:

“(K) The one hundred twenty‑day period for automatic approval is deemed tolled for all pending regulations, if:

(1) the Governor has issued an emergency executive order; and

(2) both the Senate and House of Representatives have ceased holding statewide session during the regularly scheduled session of the General Assembly.

(L) If the one hundred twenty-day period is tolled pursuant to subsection (K), then resumption of the one hundred twenty‑day period for automatic approval is deemed to occur on the first day that both the Senate and House of Representatives return to meet in regularly scheduled statewide session.

(M) Upon resumption pursuant to subsection (L), days tolled under the provisions of subsection (K) will be added to the remaining balance of days for automatic approval. Legislative review will remain in effect:

(1) during any remaining days of the regularly scheduled session of the General Assembly; and

(2) during any extension of the legislative session as prescribed by a Governor’s order or the sine die resolution.”

SECTION 6. A. Article 1, Chapter 23, Title 1 of the 1976 Code is amended by adding:

“Section 1-23-121. No verbatim statutory text shall be utilized as a regulation or clearly identifiable subdivision or portion of a regulation.”

B. Any regulatory text in the South Carolina Code of State Regulations in conflict with the provisions of Section 1-23-121, as added by this act, is repealed upon the effective date of this act.

SECTION 7. Section 1-23-280(B) and (C) of the 1976 Code is amended to read:

“(B) The committee shall consist of eleven members, at least one of whom must be engaged in agribusiness, appointed as follows:

(1) five members to be appointed by the Governor;

(2) three members to be appointed by the President of the Senate; and

(3) three members to be appointed by the Speaker of the House of Representatives.

(C) In addition, the Chairman of the Labor, Commerce and Industry Committee and the Chairman of the Agriculture and Natural Resources Committee of the South Carolina Senate and the Chairman of the Labor, Commerce and Industry Committee and the Chairman of the Agriculture, Natural Resources and Environmental Affairs Committee of the South Carolina House of Representatives, or their designees, shall serve as nonvoting, ex officio members of the committee. During the committee review process, the director or his designee, of the promulgating agency shall be available at the request of the committee for comment on the proposed regulation.”

SECTION 8. This act takes effect upon approval by the Governor.

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